IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1648 OF 2004

IN

S.C.SUIT NO.78 OF 1978

M/s.Tulsidas Khimji ...Plaintiff

Versus

M/s.Khushiram Chimanlal Pvt.Ltd. ...Applicants/ Defendants

.....

Mr.H.N.Thakore i/b M/s.Thakore Jariwala & Associates for Plaintiff.

Mr.G.Bharat i/b M/s.Bharat & Co. for Defendants.

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CORAM: A.M.KHANWILKAR, J.

JULY 4, 2005.

P.C.

1. Heard Counsel for the parties. It is not in dispute that during the pendency of this Application, interim notice No.2640 of 2003 pending before the Small Causes Court between the parties has been disposed of by order dated 29th June 2005. The Small Causes Court has ordered that the Court

Receiver appointed by this Court to continue on the same terms and conditions till the disposal of the Suit pending before this Court.

2. In that sense, relief in terms of prayer clause (a) has become infructuous. It will be, however, open to the Applicants to take out the application for similar relief in the changed circumstances only after the Rent Court decides the issue of standard rent, which application will be considered on its own merits, in accordance with law.

3. Insofar as relief in terms of prayer clause (b) in the present Chamber Summons is concerned, the Applicants shall submit his claim before the Court Receiver, who in turn, will determine the actual expenses incurred by the Applicants for the repair work of the disputed premises which can be slated to be permissible repairs and quantify such amount. After the said adjudication is done, it will be open to the Applicants to approach the Rent Court for appropriate relief, as may be advised in that

behalf. Counsel appearing for the parties have no objection to adopt this course.

4. Chamber Summons disposed of in the above terms. Ordered accordingly.

A.M.KHANWILKAR, J.